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Ser. No. 09/359,809 Dkt.: 01064.0011-05-000

DATE: 2/16/2006 **PAGES:** 20

TO: Hon. Commissioner for **FROM:**

COMPANY: U.S. Patent & Trademark **FAX #:**

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MESSAGE:

Sir:

Please acknowledge, by return facsimile, receipt of the 20 page substitute appeal brief that follows.

Robert J. Eichelburg
Reg. No. 23,057

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FEB 16 2006

PATENT

CUSTOMER NUMBER, 34,986
Docket No. 01064.0011-05000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: }
 }
Richard LEVY } Group Art Unit: 1714
 }
Serial No.: 09/359,809 } Examiner: Cephia Toomer
 }
Filed: July 21, 1999 }
 }
For: LUBRICANT COMPOSITIONS AND }
METHODS }

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

APPELLANT'S SUBSTITUTE BRIEF ON APPEAL PURSUANT TO 37 C.F.R. § 41.37

Appellant submits the following substitute brief in lieu of the December 2, 2005 brief to perfect the appeal filed on October 5, 2005. The brief sets forth the authorities and arguments on which appellant will rely to maintain the appeal.

Appellant previously paid the fee required by 37 C.F.R. § 41.20(b) (2), at the time of filing the previous brief in this application, and The Manual of Patent Examining Procedure (M.P.E.P.) §1207.04 waives the fee for filing this brief.

Appellant files this brief in response to the February 14, 2006 Communication from the examiner, rejecting the appellant's December 2, 2005 brief since it did not contain two typewritten signatures at the end of the brief and after the Certificate of Facsimile transmission. The examiner also rejected the December 2 brief since it contained a subheading "Conclusions" which the examiner claims does not follow the format for the submission of briefs pursuant to 37 C.F.R. § 41.37 (c). This brief addresses both issues by providing two type written signatures at

the end of the brief and in the Certificate of Facsimile transmission in lieu of the single typewritten signature in each instance, and by deleting the subheading "Conclusions."

(i) Real Party in Interest

The inventor assigned the parent application Serial No. 08/487,436, filed June 7, 1995 to Lee County Mosquito Control District. The assignment was recorded at reel 7878, frame 0620 on August 23, 1995, which makes Lee County Mosquito Control District the real party in interest.

(ii) Related Appeals and Interferences

Appellant has the following co-pending appeals before the Board of Patent Appeals and Interferences in related applications:

Serial No. 10/614,114 **Filed July 7, 2003**

Filed July 7, 2003

Serial No. 08/943,125 Filed October 3, 1997

The Patent and Trademark Office (PTO) has labeled the cover of their file for application Serial No. 08/943,125 as follows:

U. S. PATENT AND TRADEMARK OFFICE
RETURN TO (PTO 1056)
INTERFERENCE SERVICE BRANCH
This case is involved in an
Interference Proceeding

Appellant's August 12, 2002 brief attached as Exhibit 1, a photocopy of a certified copy of the PTO cover of application Serial No. 08/943,125. The Patent and Trademark Office has not notified appellant that they have declared an interference in any of the foregoing applications, even though they indicated on the file of application Serial No. 08/943,125 "[t] his case is involved in an Interference Proceeding." The Board also advised, when contacted by appellant's attorneys by telephone, that the Patent Office had not declared an interference in application Serial No. 08/943,125. Lastly, the Board's decision in the pending appeal could

directly affect, or be directly affected by, or having a bearing on the decision in the co-pending appeals.

Appellant calls the Board's attention to the United States Patent Application of Martin C. Flautt et al., Serial No. 09/190,866 filed November 13, 1998. Appellant advised the examiner that appellant's Application Serial No. 09/779,588 copies claims from the corresponding Flautt et al. PCT Application WO 00/29486. The Patent and Trademark Office, as of the filing of this brief, has not declared an interference between appellant's Application Serial No. 09/779,588, and Flautt et al., Serial No. 09/190,866.

(iii) Status of Claims

As of August 31, 2005 appellant had cancelled claims 1-72 without prejudice or disclaimer, leaving claims 73 - 100 in the application.

(iv) Status of Amendments

The examiner has not considered appellant's August 31 amendment to claims 73, 76, 77, 80-83, and 90.

(v) Summary of Claimed Subject Matter

The invention comprises a process of making a lubricant and a lubricant composition of matter consisting essentially of a product produced by a process (written description, page 21, lines 6-8.) of combining a superabsorbent polymer that absorbs greater than about 100 times its weight in water with a material for decreasing friction between moving surfaces where the material is a petroleum oil lubricant, or grease thereof, a solid inorganic compound, a solid organic compound, water containing a lubricant additive, a phosphate, a fatty oil, fatty acid or wax, a synthetic oil lubricant, or grease thereof, or a soap, and mixtures thereof. The lubricant additives include without limitation, an oxidation inhibitor, a rust inhibitor, anti-wear agent,

detergent-dispersant, pour-point depressant, viscosity-index improver or foam inhibitor. (Written Description, paragraph bridging pages 19 and 20, and page 20, first full paragraph.)

Claim 73 describes the metal nitride material for lubricating a surface as a particulate material which the written description of the parent application supports at page 17, paragraph two. Claim 73 also describes the lubricating material as a silicate which the written description of the parent application supports at page 14, first full paragraph and page 24 last paragraph by the recitation of the materials "asbestos," and "talc," and page 15 first full paragraph, line 3 and page 24, line 6 from the bottom by the disclosure of "mica." Claims 77 and 83 specifically claim "asbestos," "mica," and "talc" as lubricating materials. Claims 73 and 76 include a chalcogen compound as a lubricating material, which the written description of the parent application supports at page 17, paragraph two.

Claim 73 lubricating materials include the "silicate, . . . phthalocyanine" components as "compounds," and the material for lubricating a surface as optionally including an additional lubricant such as an "organic lubricant. . . ." The written description of the parent application supports the phrase "mixtures thereof" in subparagraph "(4)" of claim 73 to indicate that the invention includes mixtures of lubricants. Page 23, penultimate paragraph states that the invention relates to "various mixtures of each of the foregoing lubricants. . . ." whereas page 25 first paragraph notes that "mixtures of the solid or particulate lubricants (of the invention) can be used. . . ." and paragraph 2 notes that the invention also includes the use of "mixtures of the organic lubricants. . . ." Appellant also points out that the paragraph bridging pages 25 and 26 of the parent application describes "mixtures of the solid or particulate organic lubricants. . ." which, and that the first full paragraph on page 26 further describes the lubricants of the invention as "combinations of the solid or particulate inorganic lubricant and the solid or particulate organic lubricant. . . ."

Page 12, first full paragraph of the present application supports the claim 73 phosphate of subparagraph "(2)" of this claim defined as an "organic phosphate."

Claims 80-82 describe the superabsorbent polymer as comprising " a polymer of acrylic acid, an acrylic ester, acrylonitrile, acrylamide, co-polymers thereof or mixtures thereof" which claim 90 supports.

(vi) **Grounds of Rejection to be Reviewed on Appeal**

- a. Whether the judicially created doctrine of obviousness-type double patenting applies to claims 73 -100 taken in view of claims 85-110 of copending application Serial No. 10/781,240 filed February 18, 2004, and claims 90 -115 of copending application Serial No. 10/763,687 filed January 24, 2004.
- b. Whether the examiner has properly applied 35 U.S.C. 112, first paragraph in rejecting claims 73 and 76 for the reason that the written description allegedly does not support "the language regarding a lubricating metal alloy, lubricating metal oxide, nitride or carbonate;" whether claim 76 allegedly lacks support in the written description for all materials that provide barrier layer lubrication; and whether claim 89 lacks support in the written description for a substantially anhydrous composition.
- c. Whether the examiner has properly applied 35 U.S.C. 112, second paragraph in rejecting claims 73 for the reason that appellant allegedly has not differentiated the phosphates of subparagraph 1 and 2 of this claim; and whether claim 77 lacks support in independent claim 76 for the terms "disulfides, chlorides, selenides, sulfates, iodide and borax (sodium borate)."
- d. Whether Takayama, United States Patent No. 5,792,717 supports the examiner's rejection of claims 73, 74, 76, 77 and 90 under 35 U.S.C. § 102(e);

- e. Whether Johnson, United States Patent No. 5, 275,760 in view of Obayashi et al. United States Patent No. 4,340,706 ("Obayashi") support the examiner's rejection of claims 73-76, 80-82, 86, 87, 89-93, 96, 99, and 100 under 35 U. S. C. § 103 (a);
- f. Whether Martineu et al., United States Patent No. 4,977,192 ("Martineu") supports the examiner's rejection of claims 73, 74, 76, and 89 under 35 U. S. C. § 103 (a).

(vii) Argument

The Provisional Double Patenting Rejection

The examiner provisionally rejects claims 73-100 under the judicially created doctrine of obviousness-type double patenting based on copending applications Serial No.10/781,240 filed February 18, 2004 and Serial No. 10/763,687 filed January 24, 2004. Appellant traverses the rejection since neither copending application has issued as a patent, and further requests allowance if neither of the copending applications issues, and the only rejection remaining in the present application consists of the provisional obviousness-type double patenting rejection. If one of the co-pending applications issues as a patent, appellant reserves the right to distinguish the claims in this application from the claims of the copending application or applications in the event this application still remains as a pending application at the time of issue of one of the other applications.

Appellant should not be required to file a terminal disclaimer in the present application since the Patent Office may not allow the copending applications (Serial No.10/781,240 filed

February 18, 2004 and claims Serial No. 10/763,687 filed January 24, 2004) which form the basis of the double patenting rejection. When a provisional double patenting rejection is the sole remaining rejection in an earlier filed application, (the present application, Serial No. 09/359,809, filed July 21, 1999) and the present application is otherwise in condition for allowance, the M.P.E.P. states that the examiner should withdraw the rejection in the application and permit it to issue as a patent. M.P.E.P. § 804(I) (B).

The Rejection Under 35 U.S.C. §112 First Paragraph

The examiner rejects claims 73 and 76, under 35 U. S. C. § 112, first paragraph. Appellant traverses the rejection and requests further consideration.

The examiner takes the position that the "specification does not support the language regarding a lubricating metal and alloy, lubricating metal oxide, nitride or carbonate." The examiner concludes "Nowhere in the specification is it taught that every alloy and every metal is within the scope of the specification." (August 15, 2005 Office Action, p. 4, 2nd full par.)

The amendment to the written description, which inserts verbatim the language of original claim 5 of the parent application describes the material for decreasing friction of the present invention as comprising a "solid inorganic lubricant," a teaching that the invention comprises the use of art known lubricant metals, alloys, and lubricant compounds of such metals. The written description lists multiple examples of these lubricants, e.g., at pages 15-19, including metal carbonates, nitrides, barrier layer metal lubricants and compounds of metals, and other inorganic organic lubricants and addresses the skilled artisan who knows these materials. Appellant does not have to list all of them in the application, since the appellant did not invent the art known "solid inorganic lubricants," but rather the combination of these lubricants with superabsorbent polymers. In setting out his invention in the specification, the appellant "may begin at the point where his invention begins, and describe what he has made that is new, and what it replaces of the old. That which is common and well known [such as

"solid inorganic lubricants"] is as if it were written out in the [application] . . ." Webster Loom Co. v. Higgins, 105 U.S. 580, 586 (1881).

The appellant has not listed all of the "solid inorganic lubricants," nor does he have to. The prior art has done this for him. The Invention Disclosure Statement included with the August 31, 2005 amendment shows that the classified United States Patents describe many of these art known "solid inorganic lubricants" prior to the filing date of the present application, namely patents classified in Class 508, subclasses 121, 123, 124, 129, 150, 178, and 180 inter alia, which includes lubricant compositions based on "metals," "alloys," "silicon," "other inorganic materials" (e.g., "nitrides" etc.), or inorganic materials including metal chalcogenides (e.g., "oxides," "sulfides" etc.) and metal "carbonates."

Appellant has amended the definition of the lubricating material in claims 73, 77 and 83 to further define the objected to "lubricating metal and alloy, lubricating metal oxide, nitride or carbonate" and set out what he regards as his invention, but he can do this. The Manual of Patenting Examining Procedure (M.P.E.P.) clearly indicates this, stating that "the invention set forth in the claims must be presumed, in the absence of evidence to the contrary, to be that which the appellant regards as the invention. . . . The second paragraph of 35 U.S.C. 112 does not prohibit appellants from changing what they regard as their invention during the pendency of the application." (M.P.E.P. § 2172, I and III, p. 2100-193, August 2001) (citations omitted).

The examiner then rejects claim 76 because it allegedly lacks support in the written description for all metal materials that provide barrier layer lubrication. The prior art as cited in the August 31, 2005 Invention Disclosure Statement as well as the written description of the parent application at p. 15, line 1 et seq. support all metal materials that provide barrier layer lubrication. The August 31, 2005 amendment to page 20 of the written description, based on claim 5 as originally filed also supports this aspect of the invention, namely that the "composition, process, process for producing a product and product produced of the invention employ inter alia a solid inorganic lubricant as the material for decreasing friction."

Appellant does not have to name all of these materials that provide barrier layer lubrication, since they comprise prior art materials, and the courts construe the application as though these materials were set out in the written description. Webster Loom, 105 U.S. at 586.

The examiner also rejects claim 89 allegedly for lacking support in the specification for a composition that is substantially anhydrous. The written description of the parent application supports a composition that is substantially anhydrous at p. 29, 2nd par.

The Rejection Under 35 U.S.C. §112 Second Paragraph

The examiner rejects claims 73, 77, 89, and 90 under 35 U. S. C. § 112, second paragraph. Appellant traverses the rejection and requests further consideration.

The examiner queries how the claim 73 phosphates of subparagraphs "(1)" and "(2)" differ. Appellant has clarified this by amending the subparagraph "(2)" phosphate to indicate it comprises an "organic phosphate," whereas the subparagraph "(1)" phosphate was previously characterized in claim 73 as comprising a "metal. . . phosphate. . . ."

The examiner rejects claim 77 as lacking support in independent claim 76 for the terms "disulfides, chlorides, selenides, sulfates, iodide and borax (sodium borate)." Claim 76 recites "halides" thereby supporting the terms "chloride" and "iodide." Claim 76 also recites "an inorganic chalcogen compound" which supports "disulfides," "selenides," "sulfates," and "borax" (sodium borate, a compound that includes oxygen or a chalcogenate). Appellant points out the chalcogens comprise oxygen, sulfur, selenium, tellurium and polonium.

The examiner has not specified a particular rejection applicable to claim 89, and for that matter claim 90. Appellant therefore cannot provide a response to the rejection.

The Rejection Under 35 U.S.C. §102 (e)

The examiner rejects claims 73, 74, 76, 77, and 90 under 35 U. S. C. § 102 (e) as anticipated by Takayama, United States Patent No. 5,792,717. Appellant traverses the rejection and requests further consideration.

The examiner cites Takayama for the disclosure of a monolithic boron nitride ceramic body article of manufacture that has open pores filled with a water absorbing resin. This is not appellant's particulate boron nitride composition combined with a superabsorbent resin. Claiming the metal nitride as a particulate material distinguishes Takayama which describes an article of manufacture based on a boron nitride monolith or ceramic.

To apply this reference to reject the present claims would require taking the Takayama article and using it to lubricate a substrate, e.g., putting the Takayama article of manufacture between two sliding surfaces that frictionally engage one another. Standing by itself, it does not teach appellant's claimed particulate composition.

The examiner also states that " Takayama teaches the composition has lubricity properties (see col.4, lines 30-43)." (August 10, 2005 Office Action, p. 4, 1st par.) Appellant respectfully disagrees. This section of the Takayama reference only describes the porosity of the monolithic ceramic substrate. It does not say anything about the lubricity of the combination, but only that water can provide increased lubrication by impregnating a water absorbing polymer into the porous ceramic in increased amounts. The inventor achieves this by employing a monolithic ceramic material with relatively high porosity. Takayama therefore does not anticipate appellant's claimed particulate metal nitride lubricating composition.

The Rejection Under 35 U.S.C. §103 (a)

The examiner rejects claims 73-76, 80-82, 86, 87, 89-93, 96, 99, and 100 under 35 U. S. C. § 103 (a) as unpatentable over Johnson, United States Patent No. 5, 275,760 in view of Obayashi et al. United States Patent No. 4,340,706 ("Obayashi"). Appellant traverses the rejection and requests further consideration.

Johnson does not teach or suggest:

A lubricating composition of matter comprising a polymer, where the polymer comprises a superabsorbent polymer that absorbs greater than about 100 times its weight in water combined with a material for lubricating a surface wherein the material for lubricating a surface comprises:

- (1) a lubricating metal and alloy thereof, a lubricating metal chalcogenide, halide, carbonate, silicate or phosphate, or a particulate lubricating metal nitride, or a carbon lubricant; or
- (2) a silicate ester, polyphenyl ether, organic phosphate, biphenyl, phenanthrene, or phthalocyanine compound;
- (3) where the material for lubricating a surface optionally contains a lubricant comprising an, organic lubricant, inorganic lubricant, or water, or a lubricant additive; or
- (4) mixtures thereof.

On the contrary, Johnson describes the use of "oils" with a polymer, noting that "[o]ils are a suitable carrier medium [that] . . . include fixed oils such as glycerol fatty acids, lubricating oils, mineral oils, hydrocarbon oils such as crude petroleum, residual refinery oils from bottom streams, diesel oils, fuel oils and the like. In the present method, a food grade mineral oil is preferred. . . ." (Johnson, col. 4, lines 24-29). These bear no chemical resemblance to the claim 73 inorganic materials for lubricating a surface or the "silicate ester, polyphenyl ether, organic phosphate, biphenyl, phenanthrene, or phthalocyanine compound" class of materials for lubricating a surface.

The examiner correctly distinguishes the broader teachings of Johnson at page 7 of her August 10 Office Action, i. e., Johnson fails to teach appellant's intended use, although the examiner argues intended use does not lend patentable weight to appellant's invention, and Johnson fails to teach superabsorbent polymers, i.e., polymers that absorb more than about 100 times their weight in water. Appellant nonetheless distinguishes the reference not only for the reasons given by the examiner, but also as noted above because it fails to teach or suggest the use of an inorganic lubricating material or the "silicate ester, polyphenyl ether, organic phosphate, biphenyl, phenanthrene, or phthalocyanine compound" class of materials for lubricating a surface. Obayashi does not overcome these deficiencies of the Johnson reference.

The examiner rejects claims 73, 74, 76, 89, and under 35 U. S. C. § 103 (a) as unpatentable over Martineu et al., United States Patent No. 4,977,192 ("Martineu"). Appellant traverses the rejection and requests further consideration and reexamination.

The examiner in applying the disclosure of Martineu concludes that Table IV of the reference teaches polymers that absorb from 100% to over 300% water, and points out the previous teaching of the reference describes combinations of the polymer with these various clay-like materials. appellant distinguishes the reference on the grounds that polymers that absorb from 100% to over 300% water are not superabsorbent, i.e., they only absorb from one to three times their weight in water, whereas the superabsorbent polymers of the present invention absorb greater than about 100 times their weight in water. Martineu does not teach or suggest these or any other superabsorbent polymers.

Appellant requests the Board to reverse the examiner in all respects and remand the application to the examiner for the issuance of a Notice of Allowance. If the Board overrules the prior art and 35 U.S.C. § 112 rejections in this application and sustains the

provisional double patenting rejection, appellant similarly requests the Board to remand the application to the examiner for issuance of a Notice of Allowance pursuant to M.P.E.P. § 804(I)(B).

Respectfully submitted,

THE LAW OFFICES OF ROBERT J. EICHELBURG

Dated: February 16, 2006

By: /Robert J. Eichelburg, Reg. No 23,057/

Robert J. Eichelburg

(viii) Claims Appendix

Claim 73 A process for manufacturing a lubricant composition comprising a polymer where said polymer comprises a superabsorbent polymer that absorbs more than about 100 times its weight in water, by combining said polymer with a material for lubricating a surface wherein said material for lubricating a surface comprises:

- (1) a lubricating metal and alloys thereof, a lubricating metal chalcogen compound, halide, carbonate, silicate or phosphate, or a particulate lubricating metal nitride, or a carbon lubricant; or
- (2) a silicate ester, polyphenyl ether, organic phosphate, chlorinated biphenyl, phenanthrene or phthalocyanine compound;
- (3) said material for lubricating a surface optionally containing a lubricant comprising an, organic lubricant, inorganic lubricant, or lubricant additive;
- (4) or mixtures thereof.

Claim 74 A lubricant composition of matter comprising a product produced by the process of claim 73.

Claim 75 The lubricant product of claim 74 wherein said organic lubricant comprises a petroleum oil lubricant or grease thereof, a fatty oil, fatty acid, wax, synthetic oil lubricant or grease thereof, two-mol ethoxylate of isostearyl alcohol, a soap, a polymerized olefin, or an organic ester and wherein said composition optionally comprises a lubricant additive, or mixtures thereof.

Claim 76 A lubricant composition of matter comprising a product produced by the process comprising forming a mixture comprising a polymer where said polymer comprises a

superabsorbent polymer, said mixture further comprising a material for lubricating a surface, wherein said superabsorbent polymer absorbs more than about 100 times its weight in water and wherein said material for lubricating a surface comprises a solid lubricant comprising a metal alloy, an inorganic chalcogen compound, halide, nitride, carbonate, phosphate compound, carbon lubricant, or metal material that provides barrier-layer lubrication, or mixtures thereof, and wherein said composition optionally comprises a lubricant additive.

Claim 77 The lubricant composition of claim 76, wherein said material for lubricating a surface comprises, molybdenum disulfide, cobalt chloride, antimony oxide, niobium selenide, tungsten disulfide, boron nitride, silver sulfate, cadmium chloride, cadmium iodide, cadmium oxide, borax, basic white lead, lead carbonate, lead monoxide, lead iodide, asbestos, talc, mica, zinc oxide, zinc phosphate, iron phosphate, manganese phosphate, carbon, graphite, babbitt, bronze, brass, aluminum, gallium, indium, thallium, thorium, copper, silver, gold, mercury, lead, tin, indium, or the Group VIII noble metals or mixtures thereof.

Claim 78 The lubricant composition of claim 74 wherein said organic lubricant comprises a solid organic lubricant.

Claim 79 The lubricant composition of claim 78, wherein said solid organic lubricant comprises a fluoroalkylene homopolymer or copolymer, a lower alkylene polyolefin homopolymer or co-polymer, a paraffinic hydrocarbon wax, phenanthrene, copper phthalocyanine, or mixtures thereof.

Claim 80 A lubricant composition of matter comprising a product produced by the process comprising forming a mixture comprising a polymer where said polymer comprises a superabsorbent polymer, wherein said superabsorbent polymer comprises a polymer of acrylic

acid, an acrylic ester, acrylonitrile, acrylamide, co-polymers thereof or mixtures thereof, said mixture further comprising a material for lubricating a surface, wherein said superabsorbent polymer absorbs more than about 100 times its weight in water, and wherein said material for lubricating a surface comprises water containing a lubricant additive.

Claim 81 A lubricant composition of matter comprising a product produced by the process comprising forming a mixture comprising a superabsorbent polymer, wherein said superabsorbent polymer comprises a polymer of acrylic acid, an acrylic ester, acrylonitrile, acrylamide, co-polymers thereof or mixtures thereof, said mixture further comprising a material for lubricating a surface, wherein said superabsorbent polymer absorbs more than about 100 times its weight in water, and wherein said material for lubricating a surface comprises an oil or greases thereof and water, and wherein said composition optionally comprises a lubricant additive.

Claim 82 A lubricant composition of matter comprising a product produced by the process comprising forming a mixture comprising a polymer where said polymer comprises a superabsorbent polymer, wherein said superabsorbent polymer comprises a polymer of acrylic acid, an acrylic ester, acrylonitrile, acrylamide, co-polymers thereof or mixtures thereof, said mixture further comprising a material for lubricating a surface, wherein said superabsorbent polymer absorbs more than about 100 times its weight in water, wherein said material for lubricating a surface comprises a solid lubricant and water, and wherein said composition optionally comprises a lubricant additive.

Claim 83 The lubricant composition of claim 82, wherein said solid lubricant comprises molybdenum disulfide, cobalt chloride, antimony oxide, niobium selenide, tungsten disulfide, boron nitride, silver sulfate, cadmium chloride, cadmium iodide, cadmium oxide, borax, basic

white lead, lead carbonate, lead monoxide, lead iodide, asbestos, talc, mica, zinc oxide, zinc phosphate, iron phosphate, manganese phosphate, carbon, graphite, babbitt, bronze, brass, aluminum, gallium, indium, thallium, thorium, copper, silver, gold, mercury, lead, tin, indium, the Group VIII noble metals, a fluoroalkylene homopolymer or copolymer, a lower alkylene polyolefin homopolymer or co-polymer, a paraffinic hydrocarbon wax, phenanthrene, copper phthalocyanine, or mixtures thereof.

Claim 84 A lubricant composition of matter comprising a product produced by the process comprising forming a mixture comprising a polymer where said polymer comprises a superabsorbent polymer, said mixture further comprising a material for lubricating a surface, wherein said superabsorbent polymer absorbs more than about 100 times its weight in water, wherein said material for lubricating a surface comprises a phosphate, and wherein said composition optionally comprises a lubricant additive.

Claim 85 The lubricant composition of claim 84, wherein said material for lubricating a surface comprises tricresyl phosphate, zinc phosphate, iron phosphate or manganese phosphate, or mixtures thereof.

Claim 86 The lubricant composition of claim 74 wherein said organic lubricant comprises a fatty oil, fatty acid, or wax, or mixtures thereof, and wherein said composition optionally comprises a lubricant additive.

Claim 87 The lubricant composition of claim 74 wherein said organic lubricant comprises a synthetic oil lubricant, or grease thereof, and wherein said composition optionally comprises a lubricant additive.

Claim 88 The lubricant composition of claim 74 wherein said organic lubricant comprises a soap, and wherein said composition optionally comprises a lubricant additive.

Claim 89 The composition of any one of claims 73-79, and 84-88 wherein said composition is substantially anhydrous.

Claim 90 The composition of any one of claims 73-79, and 84-88 wherein said superabsorbent polymer comprises a polymer of acrylic acid, an acrylic ester, acrylonitrile, acrylamide, co-polymers thereof or mixtures thereof.

Claim 91 The composition of any one of claims 75-88 wherein said lubricant additive comprises an antioxidant, rust inhibitor, antiwear compound, extreme pressure additive, detergent, dispersant, pour point depressant, viscosity-index improver, or foam inhibitor, or mixtures thereof.

Claim 92 The composition of claim 75 wherein said organic lubricant comprises a petroleum oil lubricant or grease thereof.

Claim 93 The composition of claim 75 wherein said organic lubricant comprises a fatty oil.

Claim 94 The composition of claim 75 wherein said organic lubricant comprises a fatty acid.

Claim 95 The composition of claim 75 wherein said organic lubricant comprises a wax.

Claim 96 The composition of claim 75 wherein said organic lubricant comprises a synthetic oil lubricant or grease thereof.

Claim 97 The composition of claim 75 wherein said organic lubricant comprises a two-mol ethoxylate of isostearyl alcohol.

Claim 98 The composition of claim 75 wherein said organic lubricant comprises a soap.

Claim 99 The composition of claim 75 wherein said organic lubricant comprises a polymerized olefin.

Claim 100 The composition of claim 75 wherein said organic lubricant comprises an organic ester.

CERTIFICATE OF FACSIMILE TRANSMISSION PURSUANT TO 37 C.F.R. § 1.6 (d)

I hereby certify that this correspondence is being transmitted pursuant to 37 C.F.R. § 1.6(d) by facsimile to The United States Patent and Trademark Office, facsimile telephone number (571) 273-8300 on the date indicated below.

By: /Robert J. Eichelburg, Reg. No. 23,057/
Robert J. Eichelburg

Dated: February 16, 2006